



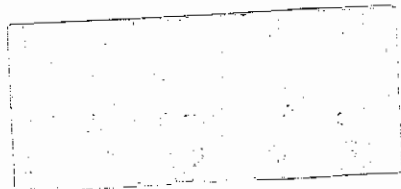
HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (S) No. 3846 of 2007

92

PETITIONERS

1. Arjun Kumar Verma, S/o Shyam sunder, Aged about 48 years, presently posted and working as Peon/ Chowkidar, Adivasi Balak Chhatrawas, Sakti, district Janjgir – Champa (CG)
2. Lai Sai, S/o Jagatram, aged about 43 years, presently posted and working as Cook, Hat Kargha Kendra, Sariya, District Raigarh (CG)
3. Pradeep Kumar, S/o Shivilal Nisad, Aged about 35 years, presently posted and working as Jal Bahak, Adivasi Balak Ashram, Dhaurabhanta, District Janjgir – Champa (CG)
4. Dujmati Viswakarma, W/O Chhoturam, Aged About 37 Years, Presently Posted And Working As Sevika, Adivasi Balak Ashram, Dhaurabhanta, District Janjgir – Champa (CG)
5. Chhabilal, S/O Jagatram, Aged About 40 Years, Presently Posted And Working As Cook, Adivasi Balak Chhatrawas, Chandrapur, District Janjgir – Champa (CG)
6. Harihar, S/o Mahendralal, aged about 39 years, presently posted and working as Cook, Government Adivasi Balak Ashram, Kawalajhar, District Janjgir – Champa (CG)
7. Shyam Lal Yadav, S/o Deo Singh Yadav, aged about 35 years, presently posted and working as Jal Bahak, Government Adivasi Balak Ashram, Dhaurabhanta, District Janjgir-Champa (CG)
8. Jaylal Sidar, S/o Kaliram Sidar, aged about 50 years, presently posted and working as Cook, Government Adivasi Balak Ashram, Dhaurabhanta, District Janjgir-Champa (CG)



(93)

Versus

RESPONDENTS

- 1) State of Chhattisgarh, Through the Secretary, Department of Tribal Welfare, D.K.S. Building, Mantralaya, Raipur (C.G.)
- 2) Commissioner, Department of Tribal Welfare, District Janjgir-Champa (C.G.)
- 3) Collector (Tribal Welfare Branch) Janjgir-Champa (Chhattisgarh)
- 4) District Organizer, Department of Tribal Welfare District Janjgir-Champa (CG)

(Writ Petition under Article 226 of the Constitution of India)

SB: Hon'ble Mr. Justice Satish K. Agnihotri

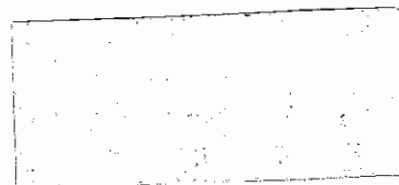
Present: Shri B.D. Guru, counsel for the petitioner.
Shri Sumesh Bajaj, Govt. Advocate for the State.

ORDER

(Passed on this 5th day of July, 2007)

(1) By this petition, the petitioners have challenged the validity of the order dated 03.08.2002 (Annexure P-1) passed by the District Organizer, Department of Tribal Welfare, District Janjgir-Champa, whereunder the grant of regular pay scales to the petitioners were withdrawn and the petitioners were paid thereafter daily wages as per Collector's rate.

(2) The indisputable facts in nutshell, are that initially the petitioner No.1 was engaged on daily wages on the post of Chowkidar vide order dated 29.01.1990, the petitioner No.2 was engaged on daily wages on the post of Cook vide order dated 17.09.1990, petitioner No.3 was engaged on daily wages on the post of Waterman vide order dated 31.03.1990, the petitioner No.4 was engaged on the post of Sevika vide order dated 27.10.1993, the petitioner No.5 was engaged on the post of Cook vide order dated 07.08.1992, the petitioner No.6 was engaged on the post of Cook vide order dated 04.01.1992, the petitioner No.7 was engaged on the post of Waterman vide order dated 06.01.1990 and the petitioner No.8 was engaged on the post of Cook vide order dated 29.01.1990 and thereafter, the petitioner No.1 was granted regular pay scale vide order dated 07.06.1990, the petitioner No.2 was granted regular pay scale vide order dated 03.10.1991, the petitioner No.3 was granted regular pay scale vide order dated 15.07.1993, the



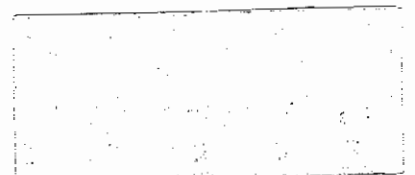
petitioner No.4 was granted regular pay scale vide order dated 22.07.2000, the petitioner No.5 was granted regular pay scale vide order dated 14.02.1994, the petitioner Nos.6 and 7 were granted regular pay scale vide order dated 08.01.1993 and the petitioner No.8 was granted regular pay scale vide order dated 03.10.1991.

(3) Learned counsel appearing for the petitioners would contend that once a right of a particular pay scale has been granted to the petitioners in accordance with law, the same cannot be withdrawn, without affording an opportunity of hearing. The petitioners have acquired the right to the fixed monthly pay scale as their services were regularized. Thus, the impugned order is bad and deserves to be quashed.

(4) Learned counsel for the petitioners heavily relied on a judgment and order dated 18th January, 2006 passed by this Court in Writ Petition No. 2125/2002 (Sant Kumar & others Vs. State of Chhattisgarh & others), wherein this Court while considering the identical issue of reducing the regular pay scale granted earlier, held that the order reducing the pay scale of an employee behind their back, without following any procedure known to law is punitive and visits with civil consequence. The same cannot be passed without giving concerned employee, an opportunity of hearing.

(5) Learned counsel for the petitioners further submits that the respondents/State of Chhattisgarh preferred a Special Leave Petition (Civil) No. 17122/2006 (State of Chhattisgarh & others Vs. Sant Kumar & others) before the Hon'ble Supreme Court, challenging the order dated 18.01.2006 (Supra), passed by this Court vide order dated 9.10.2006 after condoning the delay.

(6) Learned counsel appearing for the parties jointly submit that this case is squarely covered by the judgment and order dated 18.01.2006 passed in the case of Sant Kumar & others (supra). Thus, the impugned order dated 03.08.2002(Annexure P-1), is bad in law, being punitive in nature and passed without affording an opportunity of hearing to the concerned employees (petitioners) for putting forward their cases.



९९

(7) Accordingly, the order dated 03.08.2002 (Annexure P-1) is quashed.

The petitioners are entitled to regular pay scale from the date, the same have been withdrawn by the impugned order. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Karuna